

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Riley S. Kuntz,)
)
Plaintiff,) **ORDER**
)
vs.)
)
Department of Justice,) Case No. 1:19-cv-070
)
Defendant.)

The plaintiff, Riley S. Kuntz (Kuntz), initiated the above-entitled action on April 22, 2019. His complaint appears to set forth claims for the unlawful withholding of agency records under the Freedom of Information Act (FOIA), a challenge to DOJ Order 556-73 under the Administrative Procedures Act (APA), and a challenge to agency action with respect to a purported watch list placement under the APA.

On May 21, 2019, the Government filed a “Motion to Set Time to Answer or Otherwise Respond.” Advising that it received a copy of the summons and original complaint from Kuntz by certified mail on May 1, 2019, it seeks the Court’s guidance in determining the date on which its answer to the complaint is due. Its uncertainty regarding its deadline for filing an answer is attributable to the nature of the claims being asserted by Kuntz in his original complaint. Rule 12(a)(2) of the Federal Rules of Civil Procedure provides the Government must generally serve an answer to a complaint within sixty days after service on the United States attorney. Fed. R. Civ. P. 12(a)(2). However, in FOIA cases, statutes require it to serve an answer or otherwise respond within thirty days after service of the complaint, unless the court otherwise directs for good cause shown. 5 U.S.C. § 552(a)(4)(C).

On May 23, 2019, Kuntz filed an amended complaint as a matter of course. See Fed. R. Civ. P. 15(a)(1) (“A party may amend its pleading once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.”); Fed. R. Civ. P. 6 (d) (“When a party may or must act within a specified time after being served and service is made under Rule 5(b)(2)(C) (mail), (D) (leaving with the clerk), or (F) (other means consented to), 3 days are added after the period would otherwise expire under Rule 6(a)). In his amended complaint, he reiterated his original claims. He then went on to assert what appear to be additional claims for an alleged violation of his rights under the “Brady Bill” and the First, Second, and Fifth Amendments to the United States Constitution.

The Government’s motion (Doc. No. 8) insofar as it requests the court to set a deadline for it to serve and file an answer is **GRANTED**. Given that Kuntz has now filed an amended complaint, which is now the operative pleading, the Government need not file an answer or otherwise respond to the original complaint. The Government shall have until June 24, 2019, to file its answer or otherwise respond to the amended complaint. Should it require additional time, it may file the appropriate motion.

IT IS SO ORDERED.

Dated this 23rd day of May, 2019.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court